

PRESS INFORMATION BUREAU
GOVERNMENT OF INDIA

**OPENING REMARKS MADE BY THE FINANCE MINISTER SHRI PRANAB
MUKHERJEE AT THE BEGINNING OF THE DISCUSSION ON FINANCE BILL 2012**

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The text of the Opening Remarks made by the Union Finance Minister Shri Pranab Mukherjee at the beginning of the discussion on Finance Bill 2012 in Lok Sabha is given below:

“I presented the Budget for the year 2012-13 on 16th of March, 2012. Since then I have received a large number of suggestions both from within the House and outside. Most of these pertain to tax proposals and range from seeking modification of some proposals to reconsideration or review of certain others. Requests have also been received for granting some fresh reliefs. I express my sincere gratitude to everyone for the interest they have shown in appraising my Budget proposals. I appreciate the valuable suggestions they have made and understand the concerns they have expressed.

While I propose to address some of these through amendments to the Bill, a number of concerns relating to indirect taxes can be addressed through notifications. I shall now take up the significant amendments to the Budget proposals.

Direct Taxes

I thank the members of the Standing Committee for examining the Direct Taxes Code Bill (DTC) and making valuable suggestions. Some of the proposals in the DTC such as removal of the cascading effect of the Dividend Distribution Tax, allowing Venture Capital to invest in all sectors, introduction of Advance Pricing Agreements and raising the threshold limit for audit and presumptive taxation to Rs. 1 crore which have been endorsed by the Standing Committee, have already been included in the Finance Bill. However, I could not consider all the recommendations of the Committee as the Report was received on 9th of March, after most of the proposals of the Finance Bill, 2012 had been finalized.

In addition, certain provisions relating to a General Anti-Avoidance Rules (GAAR) have also been proposed in the Finance Bill, 2012. After examining the recommendations of the Standing Committee on GAAR provisions in the DTC Bill 2010, I propose to amend the GAAR provisions as follows:

- (i) Remove the onus of proof entirely from the taxpayer to the Revenue Department before any action can be initiated under GAAR.

- (ii) Introduce an independent member in the GAAR approving panel to ensure objectivity and transparency. One member of the panel now would be an officer of the level of Joint Secretary or above from the Ministry of Law.
- (ii) Provide that any taxpayer (resident or non-resident) can approach the Authority for Advance Ruling (AAR) for a ruling as to whether an arrangement to be undertaken by her is permissible or not under the GAAR provisions.

To provide greater clarity and certainty in the matters relating to GAAR, a Committee has been constituted under the Chairmanship of the Director General of Income Tax (International Taxation) to give recommendations for formulating the rules and guidelines for implementation of the GAAR provisions and to suggest safeguards so that these provisions are not applied indiscriminately. The Committee has already held several rounds of discussion with various stakeholders including the Foreign Institutional Investors. The Committee will submit its recommendations by 31st May 2012.

To provide more time to both taxpayers and the tax administration to address all related issues, I propose to defer the applicability of the GAAR provisions by one year. The GAAR provisions will now apply to income of Financial Year 2013-14 and subsequent years.

Hon'ble Members are aware that a provision in the Finance Bill which seeks to retrospectively clarify the provisions of the Income Tax Act relating to capital gains on sale of assets located in India through indirect transfers abroad, has been intensely debated in the country and outside. I would like to confirm that clarificatory amendments do not override the provisions of Double Taxation Avoidance Agreement (DTAA) which India has with 82 countries. It would impact those cases where the transaction has been routed through low tax or no tax countries with whom India does not have a DTAA .

The retrospective clarificatory amendments now under consideration of Parliament will not be used to reopen any cases where assessment orders have already been finalized. I have asked the Central Board of Direct taxes to issue a policy circular to clearly state this position after the passage of the Finance Bill.

Currently, long term capital gain arising from sale of unlisted securities in the case of Foreign Institutional Investors is taxed at the rate of 10% while other non-resident investors, including Private Equity investors are taxed at the rate of 20%. In order to give parity to such investors, I propose to reduce the rate in their case from 20% to 10% on the same lines as applicable to FIIs.

To promote further depth of the capital markets through listing of companies, I propose to extend the benefit of tax exemption on long term capital gains to the sale of unlisted securities in an initial public offer. For this purpose, I propose to provide the levy of Securities Transaction Tax (STT) at the rate of 0.2 per cent on such sale of unlisted securities.

It has been proposed in the Finance Bill that any consideration received by a closely held company in excess of the fair market value of its shares would be taxable. Considering the concerns raised by 'angel' investors who invest in start-up companies, I propose to provide an enabling provision in the Income Tax Act for exemption to a notified class of investors.

In order to augment long-term low cost funds from abroad for the infrastructure sector, Finance Bill proposes a lower rate of withholding tax of 5% for funding specific sectors through foreign borrowings. To further facilitate access to such borrowings, I propose to extend the lower rate of withholding tax to all businesses. This lower rate of tax would also be available for funds raised through long term infrastructure bonds in addition to borrowing under a loan agreement.

The Reserve Bank of India is formulating a scheme for subsidiarisation of Indian branches of foreign banks to ring fence Indian capital and Indian operations from economic shocks external to the Indian economic scenario. To support this effort, I propose to provide tax neutrality for such subsidiarisation.

The Finance Bill proposes that every transferee of immovable property (other than agricultural land), at the time of making payment for transfer of the property, shall deduct tax at the rate of 1% of such sum. I have received a number of representations pointing out the additional compliance burden this measure would impose. I, therefore, propose to withdraw this provision for levy of TDS on transfer of immovable property.

To curb the flow of unaccounted money in the bullion & jewellery trade, the Finance Bill proposes the collection of tax at source (TCS) by the seller at the rate of 1 per cent of the sale amount from the buyer for all cash transactions exceeding Rs.2 lakh. Responding to the representations made by the jewellery industry that this would cause undue hardship, I propose to raise the threshold limit for TCS on cash purchases of jewellery to Rs.5 lakh from the present Rs.2 lakh. The threshold limit for TCS on cash purchase of bullion shall be retained at Rs.2 lakh. However, it is being clarified that bullion will not include any coin or other article weighing 10 gms or less.

Customs and Central Excise

A related proposal that has attracted public attention is the imposition of Central Excise duty on unbranded precious metal jewellery at the rate of 1%. Madam Speaker, I would like to reiterate that the levy was well-intentioned and introduced not so much for raising revenue as for rationalization and movement towards GST. However, the outpouring of sentiment both within and outside the House indicates that we are not ready for it. As such, the Government has decided to withdraw the levy on all precious metal jewellery, branded or unbranded, with effect from 17th March, 2012.

The House would recall that certain amendments were proposed in the Customs and Central Excise Law in respect of the classification of offences as cognizable and non-bailable. In response to concerns expressed by Members that the proposal regarding grant of bail only after hearing the public prosecutor is too harsh, I propose to omit this provision entirely. In addition, only serious offences under the customs law involving prohibited goods or duty evasion exceeding Rs.50 lakh, shall be cognizable. However, all these offences shall be bailable.

There are a few other proposals relating to rationalization and adjustment of central excise and custom duties which I will place before the House while replying to the debate.

Service Tax

As Hon'ble Members are aware, taxation of services has undergone a paradigm shift with the introduction of a Negative List. This initiative has been widely welcomed.

The negative list has been drawn keeping in view the federal nature of the polity. Some of the States, through the Empowered Committee of State Finance Ministers, have expressed their concerns. I have decided to address their concerns by making changes in the definition of "service" which will exclude the activities specified in the Constitution as "deemed sale of goods". The definition of "works contract" has also been enlarged to include movable properties.

Exemption for specified services relating to agriculture in the Negative List has also been extended to agricultural produce enlarging the scope of the entry.

There are some other minor changes in the definitions based on the widespread feedbacks and suggestions that we have received from various stakeholders and are specified in the revised draft.

Notifications to give effect to these changes would be issued in due course and laid on the table of the House.

I would now like to hear the views of my colleagues from both sides of the House on the Budget proposals."

DSM/Hb

